Attorney General's
First Set of Information Requests

THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-3: Please explain whether, how, and with what effect the penalty clause described in paragraph 13.3 of the 2004 Optimization Agreement will be triggered given that the Department will not have released its order before July 31, 2004.

Response: BP Energy and the Company have executed an extension to paragraph 13.3 of the 2004 Optimization Agreement which will require an order from the Department by October 31, 2004 in order for Berkshire to remain a party to the 2004 Optimization Agreement. The penalty clause addresses only the circumstances where Berkshire does not participate in the alliance for the reasons set forth in paragraph 13.3. The aggregate Minimum Savings for the remaining alliance members would be reduced in such event by the amount stated in Section 13.3. A copy of the extension letter is provided as Attachment AG-1-3(A).

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THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-5: Please quantify on a monthly basis and describe how the costs and benefits were distributed under the Gas Portfolio Optimization Agreement approved in DTE 02-19 among the Energy East Affiliates, including Berkshire. With this response include all calculations, assumptions, worksheets, transaction journal entries and copies of all related written and electronic correspondence.

Response: Attachment AG-1-5(A) is the Allocation Agreement executed in connection with the agreements approved in DTE 02-19. This agreement governed the allocation of benefits under the portfolio optimization agreements executed by the Company and the other Energy East Affiliates.

Attachment AG-1-5(B) contains the optimization savings calculations, summarized by month by LDC for 2003-2004.

ATTACHMENTS ARE CONFIDENTIAL AND PROPRIETARY
PROTECTIVE TREATMENT

Attorney General's
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D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-6: Please quantify on a monthly basis and describe how the allocation of the costs and benefits listed in response to AG-1-5 were affected by any affiliate agreements or transactions among the Energy East Affiliates. With this response include all assumptions, worksheets, invoices and related affiliate contracts, including but not limited to affiliate services agreements.

Response: The allocations and process described in the response to AG 1-5 were not affected by any affiliate agreements or transactions among the Energy East Affiliates, other than the Allocation Agreement described and provided in the response to AG 1-5.

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THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-12: Please explain in complete detail how the dollar amounts were determined for "participating share," "benchmark", "aggregate minimum savings" and "aggregate savings sharing level" as those terms are defined respectively in the 2004 Gas Portfolio Optimization Agreement. Include in the explanation all assumptions, calculations, studies, reports and work papers.

Response: The "benchmark" is an aggressive estimate of savings that Berkshire projected it might realize through cooperative efforts with the Energy East companies only. It is predicated on Berkshire's historical performance supplemented by the experience and assets of the other Energy East companies. The level of "aggregate minimum savings" resulted from negotiations with BP Energy, and represents the minimum savings that must be realized by all of the Energy East companies before BP Energy receives any compensation. Savings defined as the "aggregate savings sharing level" also resulted from negotiations with BP Energy, and reflects the level at which the Energy East companies will receive a larger portion of the savings. The "participating share" represents Berkshire's anticipated individual contribution relative to the aggregate savings sharing level.

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THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-14: Please provide a copy of Berkshire's derivative policy and a copy of the Department's approval of such.

Response: The Company's derivative policy was provided as Exhibit B-3 to the Gas Portfolio Optimization Agreement. This same policy has been incorporated into the similar agreements with BP Energy executed by Berkshire, namely the alliance agreements approved in D.T.E. 01-41 and D.T.E. 02-19. The Department expressly acknowledged the limits of the Company's derivative policy in DTE 01-41 when it stated that "the evidence establishes that the Company will not engage in any speculative financial arrangements in procuring gas supply under the Optimization Agreement." D.T.E. 01-41, p. 14. The Department went on to direct Berkshire to "limit its cost reduction methodologies to those traditionally used by Massachusetts utilities." Id.

In addition to the two prior alliance transactions, the Department addressed the Company's derivative policy in its order in D.T.E. 03-89 approving a $20,000,000 long-term debt financial proposal by the Company. In this Order, the Department stated ""that all of its derivative activity will be performed consistent with its Derivative Policy…." D.T.E. 03-89, p. 30. The Department found that "based on the Company's stated purpose of entering derivative transactions as a means to manage the risk of rate exposure, and not as a means of speculation," as stated in the Derivative Policy, that the use of financial derivative instruments by the Company is reasonably necessary to meet the Company's service obligations…." Id. at 33.

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THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-19: Please produce copies of all documents relating to the request for proposals ("RFP") for the "Berkshire RFP" and the "Joint RFP", as those terms are defined in the Company's April 27, 2004 filing letter. Include in this response copies of all the initial request letter(s) sent to each bidder, any updates, modification or amendments to the RFPs and any responses sent by the RFP recipients. Include in this response all evaluations, studies, reports and work papers related to the RFP responses.

Response: Attachment AG-1-19(A) is a copy of an internal analysis of the Joint RFP structure. Attachment AG-1-19(B) is a copy of the request for proposal ("RFP"), or the "Joint RFP", as that term is defined in the Company's April 27, 2004 filing letter. Attachment AG-1-19(C) is a copy of an amendment to the Joint RFP. Attachment AG-1-19(D) contains copies of proposals submitted in response to the Joint RFP. Attachment AG-1-19(E) contains correspondence notifying four bidders that they were finalists in the continuing solicitation process while notifying other bidders that their proposals would not be considered further. Attachment AG-1-19(F) contains internal materials compiled for meetings with each of the four finalists. Attachment AG-1-19(G) includes certain supplements or enhancements to bids from the selected finalists. Attachment AG-1-19(H) is an internal analysis of the value associated with the BP Energy alliance employed in the bid evaluation process. Attachment AG-1-19(I) contains analyses and a summary of the selection process. The Company notes that while the summary was labeled as a draft, this version was used in the analyses and was not updated. The Company considers bids, responses and related analyses to be competitively sensitive. In addition, the bids or responses also contain competitively sensitive information that was subject to confidentiality requirements of the various bidders.

Berkshire did not prepare an individual RFP for the proposed optimization agreement. As confirmed in the course of securing the contracts approved in DTE 02-19, the responses to a mandated Company-only RFP in 2002 reflected what the Company perceived as a significant market trend of reducing value for the Company's capacity and supply assets on a stand-alone basis. The Company did not identify any changes to natural gas market that suggests that this trend has reversed. Thus, Berkshire determined it was more appropriate and cost-beneficial for customers to participate in a coordinated competitive bidding and negotiation process with the other Energy East companies in order to exploit market opportunities.

ATTACHMENTS ARE CONFIDENTIAL AND PROPRIETARY
PROTECTIVE TREATMENT

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THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-22: Please produce copies of all agreements among Berkshire, Energy East Corporation, BP Energy Company, New York State Electric & Gas Corporation, Connecticut Natural Gas Corporation and/or the Southern Connecticut Gas Company (or any combination of these companies) regarding the management or optimization of gas portfolios. Include in this response copies of the gas portfolio optimization agreements of the named Energy East Corporation affiliates and agreements concerning gas portfolio management that may exist among or between the affiliates themselves.

Response: There are several agreements between and/or among Berkshire, Energy East Corporation, BP Energy Company, New York State Electric & Gas Corporation, Rochester Gas & Electric Corporation, Connecticut Natural Gas Corporation and/or the Southern Connecticut Gas Company (or any combination of these companies) regarding the management or optimization of gas portfolios. Two of those Agreements, the Netting Agreement and the Allocation Agreement, were included with the Company's April 27, 2004 filing as part of the Gas Portfolio Optimization Agreement. These Agreements were attached as Exhibits B-9 and B-10, respectively. Additionally, the Company is optimizing its portfolio under an Interim Agreement with BP Energy. The first and second interim agreements are provided as Attachment AG-1-22(A). Operating procedures were established whereby transactions undertaken by the Parties to the Optimization Agreement are implemented pursuant to its terms. The operating procedures agreement is provided as Attachment AG-1-22(B). Finally, Connecticut Natural Gas Corporation and The Southern Connecticut Gas Company provide daily gas supply planning services to Berkshire under an affiliate services agreement. These agreements are provided as Attachment AG-1-22(C).

ATTACHMENTS AG-1-22 (B) AND (C) ARE CONFIDENTIAL AND PROPRIETARY
PROTECTIVE TREATMENT

Attorney General's
First Set of Information Requests

THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-23: Please explain how Berkshire intends to fulfill its obligation to provide least cost and reliable service in light of the terms of the 2004 Gas Portfolio Optimization Agreement and Gas Sales and Purchase Agreement.

Response: Berkshire Gas will initially satisfy its firm supply requirements from existing approved supply contracts and any replacement contracts that may become effective no later than November 1, 2004. The Gas Portfolio Optimization Agreement expressly reserves the right of the Company to replace its existing domestic gas supplies consistent with the requirements of the Department's decision in docket D.T.E. 01-41. See Section 13.7.

Section 2.7 in this agreement provides the Company with more flexibility than a similar provision approved in DTE 02-19. This section now provides that BP Energy will satisfy the Company's gulf coast production requirements, unless the Company notifies BP Energy of the availability of lower cost gulf coast production area gas. BP Energy does not have the right to match the price, and the Company may purchase the lower cost gas from another supplier. Even if BP Energy provides the Company's gulf coast supply, these supplies are priced based upon Berkshire's access to an extensive production pool. Further, Berkshire still retains the benefits of its existing approved resource portfolio, and any replacement contracts, while adding the substantial resources of BP Energy, assuring the Company's continuing ability to provide least cost and reliable service.

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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-24: Please produce copies of the 11 responses to the Company's Joint RFP referenced in Ms. Zink's testimony at 8.

Response: Please refer to the Company's response to Information Request AG-1-19.

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THE BERKSHIRE GAS COMPANY
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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-25: Please identify the names of the four short-list companies referenced in Ms. Zink's testimony at 8. Please explain why the Company viewed the final four proposals as better than the remaining seven proposals.

Response: The four short-list companies referred to in Ms. Zink's testimony at 8 are referenced in Attachments AG-1-19(E) and (F). The Company viewed these final four proposals as better than the remaining seven proposals due to the value these companies could provide to the overall optimization, the experience these companies had in the energy marketplace, and the ability to provide required back office support. Please refer to the Company's response to Information Request AG-1-19.

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THE BERKSHIRE GAS COMPANY
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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-26: Please explain why the Company viewed the BP proposal better than the four finalists.

Response: BP Energy's proposal was evaluated as providing a) gas production capability and proven reliability; b) a higher percentage of savings to customers; c) higher expected results due to its experience working with the companies and a higher optimization opportunity in the case of market conditions where such results are most valuable to customers; d) a higher minimum guarantee than the other companies; e) experience/assets on Northeast pipelines; f) the best quality back office systems; g) no "start-up" issues; h) regulators with familiarity with the 2004 Optimization Agreement as it is substantially similar to the existing agreements; and, i) a proven track record and historical gas supply relationship with the companies.

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THE BERKSHIRE GAS COMPANY
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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-27: Please list and explain all (not just the major) differences between the 2002 Optimization Agreement and Gas Purchase Agreement and the 2004 Optimization Agreement and Gas Purchase Agreement.

Response: Refer to the response to AG-1-2 which provides the redline changes between the 2002 Optimization Agreement and Gas Purchase Agreement and the 2004 Optimization Agreement and Gas Purchase Agreement.

The following changes were reflected in the 2004 Optimization Agreement as compared to the 2002 Optimization Agreement:

(a) Changes to the date of execution, term and references to expiring agreement;

(b) change to "Benchmark" amount in Section 1.6;

(c) addition of reference to Rochester Gas and Electric Corporation as an alliance participant in several sections;

(d) the participating share can be reviewed each year and changed if agreed to by the LDC's and BP Energy pursuant to Section 1.42;

(e) changes to Section 2.4 were adopted to address changing federal regulatory requirements;

(f) Section 2.7 was revised to accord Berkshire greater flexibility in procuring gulf coast supplies;

(g) Section 2.8 was revised to permit BP to develop an enhanced trading and reporting system so long as such system was satisfactory to the Company while Section 3.1 was revised to reflect the deletion of related items as a condition precedent and to delete references to a previously required audit in connection with a potential renewal or extension;

(h) Section 4.10 added a limitation on BP Energy's ability to receive payment for its services;

(i) Section 4.14 was modified to reflect the multiple year term of the 2004 Optimization Agreement;

(j) Section 10.2 was added to clarify tax obligations;

Witness: Karen L. Zink
Date Filed: August 27, 2004

Question AG-1-27 Cont'd:

(k) Section 13.3 was revised to adjust the amount of reduction in the Aggregate Minimum Savings were Berkshire not to participate in the alliance;

(l) Sections 15.1(h) and 15.2(e) were revised in order to comply with federal regulatory requirements.

Several changes were made to the exhibits to the Optimization Agreement including updating B-1 to reflect changes to Tennessee contracts; a minor revision to B-2 in terms of the description of examples of inter-company transactions; updates to B-4, B-5 and B-9 to reflect new contract numbers or updates; revisions to B-6, B-7 and B-8 to reflect Berkshire only; and a revision to B-10 to reflect refined reporting requirements.

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THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: Karen L. Zink
Date Filed: August 27, 2004

Question AG-1-28: Please list BP's assessments of market conditions which formed the basis for the Company's adjustment to aggregated guaranteed minimum savings (Zink testimony at 10).

Response: Changes to Section 1.3 were the result of negotiations with BP. Section 1.3 involves a guarantee and reflects, primarily, the risk that Berkshire and the other companies were able to negotiate for BP to agree to guarantee this level of payments to Berkshire. Although the Company does not have direct knowledge of BP's assessment of market conditions, Berkshire expects that BP's assessment was based on the description of changing market conditions discussed in Ms. Zink's testimony at 6 and 7. That is, the last few years have been extremely volatile for natural gas markets. From a commodity standpoint the last several years have featured wide variations in prices. From a broader perspective, the substantial credit challenges facing the energy industry have had a substantial effect. For example, several primary market-makers for many types of commodity and financial transactions related to natural gas have failed and their withdrawal substantially reduced market liquidity for many transactions. Importantly, neither BP Energy nor Energy East was specifically impacted by this situation, beyond the overall impact on the energy industry.

Additionally, optimization values are directly affected by market conditions. When natural gas prices, transportation values, price volatility and price spreads are low (i.e., caused by mild weather, high levels of natural gas in storage, low demand, high production, etc.) or if natural gas is priced unfavorably compared to alternate fuels, the level of savings available from optimization is reduced. However, such market conditions usually result in a period of low commodity prices which directly benefits the Company's customers. These conditions were present during substantial portions of the previous agreement term and resulted in fewer opportunities for optimization savings. At the same time, this resulted in lower gas prices and direct savings for Berkshire's customers as described in Ms. Zink's testimony at 7. Alternatively, during periods of extreme cold, there are limited opportunities for optimization as reliability is typically a paramount concern, such as was experienced this past winter. All or some of these conditions may well have influenced BP's market assessment.

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THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-29: Please explain in greater detail the Company's asserted continuity, deal-making ability, and start-up benefits from using the proposed 3-year contract term over a 2-year contract (Zink testimony at 11).

Response: The Company believes that substantial benefits are available as a result of a longer term agreement. First, start-up and operational burdens and costs will be reduced. The Company and BP have developed effective procedures for all aspects of the alliance through the course of operating under the 2001 and 2002 Optimization Agreements. As noted in Ms. Zink's testimony, a longer term deal enables the Company to execute longer term optimization transactions or straddle a longer period.

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THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-33: Please produce copies of all internal and external audits reports conducted on the Company's and BP's performance under the 2002 Optimization Agreement.

Response: An audit of the 2002 Optimization Agreement is in progress, and copies of the audit report will be provided upon completion.

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THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-34: Please explain the operating differences between the 2002 Optimization Agreement and the 2004 Optimization Agreements.

Response: There are no material changes to the operation of the 2002 Optimization Agreement compared with the 2004 Optimization Agreements except for the addition of Rochester Gas & Electric Company to the alliance.

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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-35: Please list the changes the Company made as a result of any internal or external audits of BP's performance under the 2002 Optimization Agreement.

Response: Please refer to the response to Information Request AG-1-33.

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THE BERKSHIRE GAS COMPANY
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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-36: Please explain the Company's justification for netting legal fees from the optimization profits under the 2004 Optimization Agreement.

Response: The legal fees netted against the benefits were associated with a portion of the external costs associated with the presentation of the alliance agreements to the Department for approval. Please refer to the responses to Information Request AG-1-78. These external costs were a portion of the costs necessary to achieve the alliance benefits and the Company has allocated them equally to each year of the two-year term of the alliance and will allocate these similar costs for the 2004 Optimization Agreements' regulatory approval equally to each year of the three-year term of the agreements. Importantly, consistent with the prior representation of the Company, the Company has not sought the recovery of charges from affiliates associated with the alliance and substantial external costs associated with the procurement and negotiation of these agreements, none of which are reflected in the Company's base rates. These substantial costs directly benefit the Company's customers.

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THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: Karen L. Zink
Date Filed: August 27, 2004

Question
AG-1-37: Please explain how approving the 2004 Optimization Agreement will benefit Berkshire and its ratepayers. As part of this response, please describe the other market offerings to which the Company compared the 2004 Optimization Agreement in determining the benefit amount.

Response: The 2004 Optimization Agreement will benefit Berkshire and its ratepayers by providing the opportunity for significant cost savings beyond that which might be obtained from the Company's approved supply contracts while also providing certain reliability benefits associated with greater flexibility and a supply arrangement with the largest producer and reserves holder in North America. Further, the alliance structure contributes to an overall resource planning strategy, providing more substantial benefits in volatile market conditions which have been experienced in the past few years. Finally, lower prices provide Berkshire with the ability to market its product more favorably and retain and add new load. Prior versions of the alliance structure have secured significant benefits for customers. Please refer to the response to Information Request AG-1-19.

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D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-38: Please state whether Berkshire solicited and/or received a bid from BP for the Joint RFP. If the Company did not solicit a bid, please explain the Company's reasons for not soliciting a BP bid.

Response: BP was requested to and did submit a bid in response to the Joint RFP. Please refer to the response to Information Request AG-1-19.

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THE BERKSHIRE GAS COMPANY
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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-39: Please explain how potential bidders, including BP, were notified of the Joint RFP, the bid criteria, and the bid selection process.

Response: The Energy East companies issued, by mail, a Request for Proposals ("Joint RFP") on a combined basis on November 13, 2003 to engage in a transparent and robust bidding process. The RFP contained the bid requirements, the bid criteria and a description of the bid process. Please refer to the response to Information Request AG-1-19.

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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-40: Please produce a copy of the Joint RFP.

Response: Please refer to the response to Information Request AG-1-19.

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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-42: Please explain the optimization benefits that the Company expects to achieve in the 2004 Optimization Agreement.

Response: The existing BP Energy alliance has provided substantial savings and other benefits. The alliance provides the Company with the opportunity to secure gas cost savings, based upon the advice received from BP's experts. A continuing relationship with BP Energy, the largest producer and reserves holder of natural gas in North America, a financially strong company with solid and ethical business values, is desirable. The 2004 Optimization Agreements maintain the principles, control and flexibility of the original agreements that were approved in D.T.E. 01-41 and D.T.E. 02-19, and allow the Company to reap the benefits of the expertise of a nationally recognized energy expert, while minimizing the risks. Customers will not pay more than currently required under approved natural gas purchase agreements. As noted in the response to Information Request AG-1-37, the Company also secures some reliability and flexibility benefits from its participation in the alliance.

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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-45: Please describe and quantify how much the Company would have paid for natural gas, storage and transportation if the 2002 Optimization Agreement had not been in place.

Response: The Company's costs for natural gas, storage and transportation would have been increased by the dollar amounts included in the responses to AG-1-4 and AG-1-31 had the 2002 Optimization Agreement not been in place.

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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-47: Please identify the incentives BP has to provide gas savings to the Company.

Response: BP Energy does not secure any benefit until a minimum level of savings are achieved. Beyond that, further compensation is based upon a sharing approach that provides compensation only for performance. Please refer to Section 4.2 of the Optimization Agreement.

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THE BERKSHIRE GAS COMPANY
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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-49: Please explain how the costs and savings will be allocated among the Alliance companies and between the Alliance companies and Berkshire.

Response: See the response and attachment to AG-1-5.

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THE BERKSHIRE GAS COMPANY
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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-50: In allocating savings, please explain how BP keeps track of which company's assets are used to generate the savings.

Response: Each asset employed to implement an optimization transaction is tracked. If possible, any savings generated are assigned directly to the Company maintaining the underlying asset. If more than one Company's assets are involved in an optimization transaction, savings are allocated in accordance with the Allocation Agreement. Please refer to the response to AG-1-5.

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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-51: If the Company performed internal audits of BP's performance under the 2002 Optimization Agreement, please provide: (1) the names, titles, and job description of the personnel who performed the internal audit; (2) their training and experience in internal auditing; (3) their specific functions in performing the audits; and (4) copies of the internal audit reports.

Response: Please refer to the response to Information Request AG-1-33.

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THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-52: Did the Company allow external auditors to review the 2002 Optimization Agreement internal audit reports, as the Company promised in 02-19 [See DTE 02-19 Order, p. 18]? If so, provide: (1) the names, titles, and job description of the personnel who performed the external audit; (2) their training and experience in internal and external auditing; (3) their specific functions in performing the external audit; (4) copies of the external audit; and (5) copies of the evaluations that were to be done by the external auditors.

Response: The cited reference relates to a report of an Energy East internal audit that evaluated whether the procedures and controls in place under the 2001 alliance agreements (considered by the Department in D.T.E. 01-41) were appropriate and to determine whether actual alliance allocations were performed consistent with established procedures. Such an audit was conducted in connection with the decision to review or extend the 2001 Optimization Agreements. Ultimately, such agreements were renegotiated to reflect then current market conditions. The internal audit report was available to and, indeed, was provided to the external audit team in compliance with financial reporting requirements. The Department expressly found that internal audit personnel were qualified. Please refer to the response to Information Request AG-1-33.

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D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-53: Explain how the Company has refined the allocation methodology since the 2002 Optimization Agreement, as ordered by the Department in DTE 02-19 (Order, p. 19).

Response: See response to AG-1-5.

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THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-65: Regarding the Company's June 17, 2003 optimization performance report filed in DTE 02-19, please explain: (1) why the LDCs, not BP, determined the savings categories to the LDCs; and (2) what were the savings allocation categories for the 2002-2003 term of the 2002 Optimization Agreement.

Response: The savings categories were established by the LDCs, and BP Energy performed the administrative task of reporting the savings by category as required by the Optimization Agreements. Berkshire reviews the categorization and allocation of all savings. See response to Information Request AG-1-1, Attachment A, 2002 Optimization Agreement, Exhibit B-2. The same categories were tracked throughout the term of the 2002 Optimization Agreements.

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THE BERKSHIRE GAS COMPANY
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Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-66: Regarding the Company's June 17, 2003 optimization performance report filed in DTE 02-19, please identify the Allocation Team by name, title, organization, job description, experience, and specific responsibilities regarding the Agreement allocations.

Response: The Allocation Team consisted of William Barschdorf from the Company, John Rudiak from SNG and CNG and Brian Hawley from NYSEG. These individuals hold management positions with their respective companies. Resumes or C.V.'s have been requested and will be provided when available.

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D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-72: Please explain in greater detail and itemize the adjustments referenced in Attachment B of the Company's June 17, 2003 optimization performance report. Provide copies of the invoices that substantiate these adjustments.

Response: Please refer to the response to Information Request AG-1-78.

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THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-76: Refer to the August 5, 2004 report filed in compliance with DTE 02-19. Please provide schedules that are equivalent to Attachment A for each of the prior years that the Company has engaged BP to provide similar services.

Response: The Company does not have a report for the 2001 Optimization Agreements in the format provided in the August 5, 2004 report filed in compliance with DTE-02-19. However, the Company can state that it earned $ in optimization savings during the term of the 2001 Optimization Agreements. The results for the first year of the term of the 2002 Optimization Agreements is presented in the response to Information Request AG-1-4.

CONFIDENTIAL AND PROPRIETARY
PROTECTIVE TREATMENT

Attorney General's
First Set of Information Requests

THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-77: Refer to the August 5, 2004 report filed in compliance with DTE 02-19. Please describe each dispute that the Company or any affiliate had with BP during the period covered by the report. Include the issues in dispute, date the disputed event took place, the date the dispute was initiated, citations to the governing sections of the agreement, copies of the cited section, the amount of the dispute, how the dispute was resolved, the resolution date and how and when any disputed amounts were recovered from the Company's customers.

Response: The Company did not have any disputes with BP during the period covered by the report. Further, the Company is not aware of any disputes which. any affiliate had with BP during the period covered by the report.

Attorney General's
First Set of Information Requests

THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question
AG-1-78: Refer to the August 5, 2004 report filed in compliance with DTE 02-19. Please provide the details of the full amount of the "external legal costs." Include copies of all invoices.

Response: Please refer to Attachment AG-1-78(A) for legal invoices for regulatory counsel to the Company. The Company is treating the rate information reflected in these invoices as confidential as it relates to its counsel's rates. As described in the response to Information Request AG-1-38, the Company has only reflected a portion of the external legal costs associated with the Optimization Agreements and no part of such costs that are chargeable to affiliated entities has been recovered.

ATTACHMENT IS CONFIDENTIAL AND PROPRIETARY
PROTECTIVE TREATMENT

Attorney General's
First Set of Information Requests

THE BERKSHIRE GAS COMPANY
D.T.E. 04-47

Witness: **Karen L. Zink**
Date Filed: **August 27, 2004**

Question AG-1-79: Refer to the August 5, 2004 report filed in compliance with DTE 02-19. Has the Company recovered external legal costs for CGA activity that were not approved as part of a base rate case through the CGA? If yes, please explain when these costs were incurred, provide the amount and provide a copy of the Department's approval order.

Response: No legal costs of the Company associated with the alliance are reflected in base rates. The Company has adjusted the CGA flow back of benefits to address a portion of the external costs necessary to secure the benefits associated with the alliance consistent with Section 3.0 of the Company's CGAC rate schedule. See response to AG-1-36. This approach has been accepted in the Company's most recent CGAC adjustments.